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THE ROMAN REPUBLICAN CENSUS AND CENSUS STATISTICS

Ancient authors have preserved for us the census statistics from thirty-six lustra for the period between the foundation of the Republic and 70 B.C. These have been cited constantly by modern historians of antiquity to bolster their calculations of total population, of economic or social strength, or of military potential, and to indicate long term social and economic changes. To use the census figures for these purposes, however, requires a clear understanding of the nature of the census statistics. When Livy says that the number of *censa civium capita* was 394,726, what is he talking about?

We are blessed, it is true, with a number of answers to this question. Unfortunately, however, several of them are in direct contradiction to others. Each of the major theories has won a number of distinguished adherents because of the attractive manner in which it explained evidence or answered questions about the census. If all of the theories performed these functions equally well, we would indeed be at a loss; but if one explains or answers all or nearly all of the questions posed, while another does not, perhaps we shall have a basis on which to establish our own opinion.

Numerous though they are, conceptions of the nature of the census statistics for the most part fall under one of four possible interpretations. These may be conveniently described as the theories of (I) Mommsen in his later stage, (II) Beloch and Frank, (III) Herzog and Greenidge, and (IV) Zumpt, Hildebrand, and Mommsen in his earlier stage. Although almost all the works hereafter cited contain much about the census which is fine and true, we must generally confine ourselves to a simple description of the viewpoints expressed in each on the nature of the census statistics which have been preserved. We are fortunate, however, in the fact that Mommsen's arguments for his final judgment may be stated briefly, and that his documentation is used in large part also by Herzog and Beloch, though from the same evidence they arrived at different conclusions. Therefore, after initiating a brief survey of the principal theories with a statement of Mommsen's final views, we may conveniently, and justifiably in his case, consider the validity of the support which he adduces for them.

(I) Mommsen believed that the figures given by ancient authorities represented the numbers of men on the army lists.[1] They represented the *tabulae iuniorum*, lists compiled by the censors of male citizens between the ages of 17 and 46 whatever their property qualifica-

[1] *Hermes* 11 (1876) 59; Th. Mommsen, *Römische Forschungen* (Berlin 1864-1879) II (1879) 401-404, *Le Droit Public Romain* (Paris 1887-1896) IV (1894) 93.

tion. Mommsen's *tabulae iuniorum* represent a derivative list which was compiled from information in the censors' more comprehensive statistics and which, for reasons unexplained, the annalists preferred to cite as representing the *civium capita* at each lustrum.

Mommsen had three reasons for his opinion: (1) When Livy gives his first census figures, he adds by way of explanation: *adiicit scriptorum antiquissimus, Fabius Pictor, eorum, qui arma ferre possent, eum numerum fuisse.*[2] (2) Dionysius states that no census had been taken for seventeen years when, in 443 B.C., the office of censor was created, and that no one knew, therefore, the number of men of military age.[3] Dionysius also uses the phrase *en hêbêi politôn* at various times when he gives the census figures for the period before the creation of the office of censor.[4] (3) The military potential of the Romans for the year 225 B.C. was given by Polybius as 291,300,[5] a number comparable to the census figure of 270,713 for 233 B.C.[6]

Of Mommsen's first argument it may be said that the meaning of the passage of Livy which he cited is exactly contrary to that which he attached to it. Livy gave Fabius' remark as something extraordinary. *Milia octoginta eo lustro civium censa dicuntur; adiicit scriptorum antiquissimus, Fabius Pictor, eorum, qui arma ferre possent, eum numerum fuisse* can only mean that according to one of Livy's sources, and that the oldest, the figures of the first census were not exactly what one would expect, and he therefore indicated a possible qualification for this single instance. Nowhere else in Livy does this qualification appear with the census figures.

The first citation from Dionysius is not really pertinent. It merely states that if no census were taken for seventeen years, the number of men of military age was unknown. This is of course true. Fathers gave in the names of their children at the time of the census. Youths became eligible for military service at seventeen. After seventeen years the basic census lists would, then, be of no military value.

The language with which Dionysius accompanies his statistics is more puzzling. In five of the six passages in which he gives census statistics, he uses some form of the phrase *hoi en hêbêi*. Mommsen appears to believe that this refers to men of military age, specifically the *iuniores*, yet at Book 5.75.3 Dionysius states that Larcius as dictator found *hoi en hêbêi Rhômaioi* to number 150,700, and in the next sentence declares that, "after this he separated those of military age from the older ones." *Hoi en hêbêi* therefore did not mean the *tabulae iuniorum* to Dionysius. Precisely what it did mean to him is not clear. It may be that he is not pretending to be giving the figures of the basic census list, but rather is giving statistics somehow derived or calculated from them: it is to be noted that ordinarily he stated that a census was taken and then added, "from this it was discovered that the number of Romans *en hêbêi* was . . . ." In one case where he used the phrase one might expect (9.36.3 *hoi timêsamenoi politai*), he said of them that they registered themselves, their wealth, and their *en hêbêi* sons. The number of persons so registering was 103,000, which is the latest (474 B.C.) and the lowest census figure given by Dionysius. A case could be made to show, then, that the Greek, Dionysius, tried to convert the census statistics which he found into the numbers of adult males, at least at such times as he desired to state the number of adult

[2] Livy 1.44.2.
[3] Dionysius 11.63.2.
[4] Dionysius 5.20; 5.75.4; 6.63.4; 9.25.2; 9.36.3.
[5] Polybius 2.24. This figure was computed by Mommsen, *Römische Forschungen* (Berlin 1864-1879) II (1879) 382-406.
[6] Livy *Ep.* 20.

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males in order to illuminate an historical situation. Such a procedure on the part of Graeco-Roman historians is not unparalleled. Herzog observed that both Livy and Plutarch stated the Roman strength at the time of Alexander the Great.[7] Livy set it at 250,000 (*capita*),[8] Plutarch at 130,000.[9] Plutarch appears to have been conscious of Livy's figures, but he converted the number into the portion of 250,000 which he conceived could be put effectively into the field. Or it may be that the truth lies with Tenney Frank's suggestion that Dionysius interpreted early figures in the light of Augustan practices. In any case, the evidence offered by Dionysius affords a very weak foundation for the view of the census statistics maintained by Mommsen.

The comparison of the census figures for 233 B.C. and the army potential of 225 was offered by Mommsen merely as corroborative evidence and need not delay us at present. Whatever significance it may have must depend on further investigation.

(II) In Beloch's opinion the figures reported at the time of the census by Livy (*civium capita*), Dionysius, Plutarch, and later authorities included all adult male citizens without regard for standing or wealth.[10] A similar view was expressed by Tenney Frank in two articles on the census statistics for the whole republican period.[11] He believed that until 339 B.C. the statistics embraced all free inhabitants, but that after the Latin War and the great expansion of the State only adult males were included.

(III) Herzog limited the numbers reported in the census to adult male citizens with the qualifications for army service.[12] This included both juniors and seniors but excluded most *proletarii* and freedmen. This view was adopted by Greenidge.[13] Proponents of this explanation seem to overemphasize the military aspects of the census, but they rely for proof most especially upon the rise in the census figures between 131 and 125 B.C. They believe that this rise reflects a rise in the number of persons who, thanks to the land assignments made under Tiberius Gracchus' land law, could then register with the censor sufficient property to meet the minimum requirements for army service.

(IV) An older view held that the census statistics which are preserved, especially those in Livy, represent the numbers of persons of Roman citizenship who were *sui iuris*, that is, in their own power in private law. This conception appears in studies of the census made by Zumpt[14] and Hildebrand,[15] and was once maintained by Mommsen.[16] It has not received much attention in recent years, nor has it been subjected to the most important criteria.

There is something attractive about each of these explanations of the census statistics, though perhaps at the present time that of Beloch has the greatest following. While this is not the place to discuss in detail the distinctive features of the various views, it is perhaps only fair to warn readers to be suspicious of theories which prove to be based on the weakest of foundations: deductions made from the application of nineteenth century German and French population statistics to the still obscure conditions of republican Rome. This was done in many cases, moreover, with a splendid disregard for the language used by the Romans themselves in speaking of the census and of the figures derived from it.

The theories here so briefly described were, in any case, the products of the inductive interpretation of all, or of a large part, of the evidence. We have found in one case, however, that the evidence so adduced did not appear, upon close examination, to support the conclusions drawn. It would be tedious to repeat this performance with a great number of theories, each the result of close reasoning and of a laborious collection of data. A more practical approach would be, perhaps, to discover which of these theories is really compatible with the positive evidence which we have on the census and on the statistics derived from it. Thereupon a real historical crux involving the census could be studied in the light of each theory so tested, to see whether or not in practice it proved superior to others. Stated simply, the first step consists of the consideration of two questions to which any theory about the census statistics must furnish satisfactory answers if it is to merit defence. One question is very general in character: (I) Does this theory concerning the nature of the census statistics reflect the purposes for which the Romans asserted that they took the census? The second is much more restricted, and has to do with direct evidence on the status of the persons included in the statistics: (II) Does the specific exclusion of widows and wards from two citations of census figures appear to be rational, or to have any meaning at all?

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7 E. Herzog, "Die Bürgerzahlen in römischen Census von Jahr d. St. 415 bis zum Jahr 640," *Commentationes Philologae in Honorem Theodori Mommseni* (Berlin 1877) 128.

8 Livy 9.19.2.

9 Plutarch *De fort. Rom.* 13.

10 J. Beloch, *Die Bevölkerung der griechisch-römischen Welt* (Leipzig 1886) 318-319.

11 T. Frank, "Roman Census Statistics from 225 to 28 B.C.," *CP* 19 (1924) 329-341; "Roman Census Statistics from 508 to 225 B.C.," *AJP* 51 (1930) 313-324.

12 E. Herzog *op. cit.* (*supra*, n. 7) 124-142.

13 A. Greenidge, *A History of Rome* (New York 1905) 150.

14 K. Zumpt, "Ueber den Stand der Bevölkerung und die Volksvermehrung im Althertum," *Abh der königlichen Akademie der Wissenschaften zu Berlin* (1840) 19.

15 B. Hildebrand, "Die amtliche Bevölkerungsstatistik im alten Rom," *Jahrbücher für Nationalökonomie und Statistik* 6 (1866) 81-96.

16 Th. Mommsen, *Römisches Staatsrecht*[3] (Leipzig 1871-1888) II (1874) 371.

An historical problem connected with the census, which is of sufficient difficulty to provide an adequate test for the theory, is found in the phenomenal rise in the census figures between 131 and 125 B.C. This rise is commonly thought to have been in some way connected with the land law of Tiberius Gracchus, but the connection has never been fully and satisfactorily explained. It will be the purpose of this paper to examine more fully the evidence concerning the nature of the Roman census statistics on which our two test questions are based, and then to discover which theory provides the most reasonable answers to those questions. In another paper, to appear in a later issue of this periodical, an attempt will be made to discover whether this same theory, and it alone, can lead us to a satisfactory explanation of the rise in the census in the Gracchan era.

I

What do we know certainly of the purposes of the Roman census and of the methods of the censors? This is a legitimate question to ask ourselves in preparing our first criterion, for surely the lists compiled by the censors conformed to the duties and responsibilities which the censors enjoyed. The censors had the task of determining, organizing, preserving, and improving the material well-being of the State. These duties are reflected in the activities connected with the censor's office: in the statement made under oath to them (*professio*) by heads of families concerning their civic status, wives, children, and property;[17] in their subsequent organization of the people by tribes, classes, and centuries;[18] in the penalties they meted out to the slatternly or the prodigal;[19] and in their care for public works, letting of contracts, and allied tasks.

It can readily be seen that the *professiones* of the citizens are all-important. The information received from these made possible almost all the other activities of the censors. We are fortunate to be reasonably well-informed as to the nature and contents of the *professio*. It was made by the *paterfamilias* in behalf of his *familia*. He, on oath, stated his name, his father's name, his tribe, his wife's name, his children's names and their ages, and the value of his property.[20] Apparently the profession of the *paterfamilias* could be made by another if he so desired,[21] and under certain circumstances, such as absence on the service of the State, citizens may have been excused from a profession.[22] For wards and women, who could not themselves appear before the censor, declaration was made by the tutor or guardian.[23] It is of some importance to note that such guardian might himself be a *filius-familias*.[24] In that case, a son might be declared by his own father before the censor, and himself appear before the censor to make a declaration for a ward.

When the declarations were completed, the censors had a list of all Roman citizens, but one in which the principle of arrangement attached all other citizens to those who were *sui iuris*. In other words, they had a certain number of entries, each entry being the equivalent of one *familia*. The importance of this list is clear. The Roman *tributum* was not a head-tax: it was tax on property owned *ex iure Quiritium*,[25] and only persons who were *sui iuris* could own property in that fashion. Widows and orphans were originally excused from such payment,[26] but Camillus is said to have found it necessary to register orphans for tax purposes.[27] Even those persons who were deprived of full citizenship rights but who were liable to taxation or military service or both (the *Caerites* and *aerarii*) were registered by

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17 Dionysius 4.15.6; Cicero *De leg.* 3.3.7; Gellius 4.20.3; 6.11.9; *Tabula Heracleensis* lines 145-148.

18 Livy 1.42.5, 1.43; Varro *LL* 6.93; Cicero *De leg.* 3.3.7; Zonaras 7.19.

19 Gellius 4.12; Pseudo-Asconius *ad* Cic. *Div. in Caecil.* 8 (p. 103 Orelli).

20 Dionysius (4.15.6) asserts that the Romans declared their names, the just value of their property, the names of their parents, wives, and children, their own age, and their place of residence (tribe). Cicero (*De leg.* 3.3.7) corroborates this, though phrasing it differently: that the censors registered the ages, offspring, and wealth (*familias pecuniasque*) of the people. In his account of the attempts of the Latins in 187 and 177 B.C. to regain citizens lost to Rome, Livy (39.3.5 and 41.9.9) indicates that fathers registered their sons as long as they were in their power, regardless of age or residence. Similarly, in the case of deserters from the Macedonian army in 169 (43.14.8) he states that soldiers who were *sui iuris* should return to Macedon in thirty days after registering in the census, but those who were *alieni iuris* were merely to state the name of their father or grandfather. Apparently by the time of Julius Caesar, however, adult citizens registered themselves regardless of status (*Tabula Heracleensis* lines 145-147).

21 Varro (*LL* 6.86) includes in the *Tabulae Censoriae: si quis pro se sive pro altero rationem dari volet*, and Gellius (5.19.16) quotes from a speech of Publius Scipio deprecating the permission to register *in absentia*. But perhaps these are not the same things.

22 Cicero *Pro Archia* 5.11; *Lex Acilia Repetundarum* lines 14, 17, 23.

23 See Mommsen, *Le Droit Public Romain* (Paris 1887-1896) IV (1894) 41. In early times (Livy 3.3.9) these were referred to as *orbi orbaeque*, which Festus (*s.v. orba*) explains, in the case of *orba*, as *quae patrem aut filios quasi lumen amisit*. In later law they appear as *pupilli* and *viduae* (Livy *Ep.* 59).

24 Pomponius *ap.* Justinian *Dig.* 1.6.9; Justinian *Inst.* 1.14.1.

25 Dionysius (4.43.2 and 5.20) states that before and after the Tarquins taxes were levied according to wealth, but that a head-tax was imposed by the Etruscans. Livy (2.9.6) says that in the first year of the Republic the poor were relieved of *tributum* since they were thought to contribute enough to the State by bringing up their children. See also Cicero *De rep.* 2.22.40.

26 Plutarch *Publicola* 12.

27 Plutarch *Camillus* 2. It is indicated that the funds derived from the estates of widows and orphans were applied to the care of the *equi publici* (Cicero *De rep.* 2.20.36; Livy 1.43.9).

the censor, even though they were entered upon a separate list and not assigned to tribes.[28]

This list served admirably, therefore, as a means whereby the censors could fulfill their primary tasks. They could determine quickly from it the revenues from the *tributum*, exacted from adult *patresfamilias* whether full citizens or *aerarii*, and the analogous levy of *aes equestre* or *aes hordiarium*, exacted from widows and orphans. They also had at hand enough information on the wealth, family, and tribal status of each citizen to carry out the organization of the people by tribes, classes, and centuries. To do this properly, of course, citizens *sui iuris* with little or no property must likewise have been included in the basic census list. Although such persons paid no taxes and were not liable for army service, nevertheless they had to be assigned to the proper place in the Comitia Tributa and the Comitia Centuriata. Surely it is to these subsidiary lists that Cicero refers when he cites among the duties of the censors, susebquent to the registration of the citizens, *populique partis in tribus discribunto, exin pecunias, aevitates, ordines partiunto, equitum peditumque prolem discribunto.*[29]

From this list also there would be no difficulty in constructing a roll of those persons eligible for army service. Fathers and guardians gave the names and ages of their children and wards, and whether or not each person between the ages of seventeen and forty-six had the necessary property qualification could also be determined from the entry of his *familia*. This roll of eligible soldiers was known as the *tabulae iuniorum*.[30] We do not know exactly how or by whom this was composed. Perhaps one was compiled during the censors' term of office. If so, it must have been after the earlier basic list was completed. A passage in Varro seems to refer to the formation of an army by the censors,[31] but the military character which clung to the Comitia Centuriata throughout the Republic renders the meaning of the passage uncertain.

We are now in a position to examine the adequacy of the theories described as answers to the first question, "Does the theory reflect the purposes for which the Romans asserted that they took the census?" Our examination can mercifully be brief. We have described the purposes of the Roman census and the nature of the censorial list which must have resulted. The first three theories which we described do not identify the census statistics with the censorial list. They differ from one another, but share the common characteristic of favoring subsidiary lists derived from the master list. Although the basic censorial list of persons *sui iuris* was used as the foundation of a number of subsidiary lists, there is no cogent reason advanced in any of these theories explaining why annalists should have gone to the subsidiary lists for their census figures and should have failed to say so. At least, I take it that the identification by Beloch and Frank of *censa civium capita* as "all adult male citizens without regard for standing or wealth" means that the annalists added the number of persons listed in either of the Comitia to the number listed on the *tabulae Caeritum*. Or, in the view of Herzog and Greenidge, the lists drawn up for the Comitia Centuriata must have been consulted and, after those having an estate of less than 5000 asses were subtracted, the number of persons remaining was rendered as *censa civium capita*. Again, if we consider the subsidiary list favored by Mommsen, the *tabulae iuniorum*, one must wonder why historians preferred to cite at the conclusion of a census, not the census figures for a lustrum, but figures which were valuable for only one year. Men were fulfilling their required periods of service annually, and new youths would constantly become eligible. Recourse must in such case be made to the basic censorial list, where the requisite information was available.[32] This task may have been left to the more or less permanent bodies of scribes attached to the various magistracies.[33] The first three theories do not, therefore, fare well in the light of our first criterion. They do not allow us to accept the census figures as those which it was the primary purpose of the censors to determine, and they attribute to the annalists incredible deviousness and perversity in insisting on substituting figures from derivative lists rather than from the main list compiled by the censors. The view of Zumpt and Hildebrand, that the figures represent those persons of Roman citizenship who were *sui*

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28 Citizenship without the *ius suffragii* was given to the people of Caere (Livy 7.20.8). Later, persons who were deprived of full citizenship for some injury to the State were removed from their tribes, designated *aerarii* and subjected to taxation, and listed in *tabulae Caeritum* (Pseudo-Asconius *loc. cit.* [*supra*, n. 19]; Schol. *ad* Hor. *Ep.* 1.6.62; Gellius 16.13.7; Livy 4.24.7).

29 Cicero *De leg.* 3.3.7. The language of Livy in this respect is also notable (1.42.5): *tum classes centuriasque et hunc ordinem ex censu discripsit.* This too must refer to lists drawn up subsequent to and dependent upon the basic censorial lists.

30 Livy 24.18.7.

31 Varro *L.L.* 6.93.

32 Dionysius (4.15.5) also states, on the authority of Calpurnius Piso, that Servius Tullius established a procedure whereby relatives deposited a coin for the new-born at the Temple of Ilithyia, for those who died at the Temple of Venus Libitina, and for those who attained the military age at the Temple of Juventus. We have no further republican evidence on such vital statistics, though there certainly appear to have been such in the Empire (Pliny *NH* 7.48.158-159; Phlegon *Peri makrobiôn*, FHG III 608-611; Ulpian *ap.* Justinian *Dig.* 35.2.68 Fr.).

33 While the composition of the *tabulae iuniorum* is nowhere attributed to the censors, we find the censors consulting them (Livy 24.18.7). The one instance where the censors appear to be actively concerned with the enlistment of soldiers (in 169 B.C.) Livy treats as an unusual circumstance (43.14.5-6; 43.15.7-8), and Polybius, in his treatment of the Roman military system (6.19-20), certainly ascribes to the consuls the responsibility for the annual enrollment of troops.

iuris, coincides exactly with the evidence about the basic censorial list, however, and therefore may be said to be thus far vindicated.

II

The second test is furnished by the specific exclusion, on two separate occasions, of widows and wards from the census totals. Livy excludes them, when reporting the figure for 465 B.C., with the early legal phrase *praeter orbos orbasque,*[34] and for 131 B.C. in the classical language *praeter pupillos et viduas.*[35] We cannot be certain whether the exclusion of widows and wards from the figures was regular or exceptional. It is more probable, in view of the two specific cases of exclusion cited by Livy, that it was exceptional. It is a notable fact, moreover, that the census figures of the census immediately following each of the cases where Livy specifically excluded widows and orphans shows an unaccountably large increase.[36]

The bearing of the appearance of these phrases upon our problem is clear and unmistakeable. Nothing could be more ridiculous than the gratuitous observation by annalists that they were excluding widows and orphans from the numbers which they derived from army rolls or, for that matter, from lists of adult males, however qualified.[37] It is only rational to suppose that when the annalists exclude them they do so because widows and wards enjoy some characteristic in common with the persons who were included, and that one would therefore expect their inclusion as well. Our study of the nature of the basic censorial list has already shown us what this characteristic is. We found there that only heads of family or their representatives made declaration before the censors. *Pupilli* and *viduae,* like the *patresfamilias,* were *sui iuris,* owned property subject to the control of their guardians, and were included on the basic censorial list. The common legal status of all persons mentioned as directly accountable to the censors is striking and significant, and, when certain of these persons are specifically excluded, attention is drawn to the body from which they are excluded, not to a body such as the army rolls or the assemblies in which they never were included.

What is more, the phrase regularly used by Livy in the citation of census figures, *censa civium capita,* can mean to the person without preconceived notions only "the number of citizens rated." Only persons who were *sui iuris* were eligible for rating, since they alone owned property *ex iure Quiritium.* Moreover, all persons who were *sui iuris* were rated. This is shown not only by the mention of wards and widows, but also by the existence of the designation *capite censi* or *proletarii.*[38] These persons did not have sufficient property to meet the minimum requirements, sometimes had no property at all, yet if they were *sui iuris* they declared themselves and their children, and because they could offer the latter they received their distinctive name,[39] and they could vote in the Comitia. Cicero is explicit in his reference to the enrollment of these men in the census.[40]

It seems clear that it was the material collected for the basic censorial list which was carefully preserved and which would be available for the research of future annalists. Although the declarations in Caesar's day differed somewhat from earlier practice, by his municipal law he ordered the vital statistics derived from the declarations transcribed immediately upon their receipt and preserved in the archives.[41] Access to these records must have been easy for persons of authority or reputation.[42] Indeed, Clodius thought it worthwhile to burn down the Aedes Nympharum in order to destroy the evidence preserved in the public records from the census.[43] There can be no doubt that such authorities as Fabius Pictor, Marcus Cato, or Calpurnius Piso could and did consult these records freely.

Every consideration of utility, language, and law has led us to the conclusion that the first and main effort of the censors was to rate the Roman citizens who were *sui iuris.* Furthermore, while there is little to contradict it, much evidence confirms the opinion that it was normal practice in the Republic for the annalists to cite from this basic list whenever they gave the census figures. While we still need to test this theory against a real historical predicament, we may maintain that the

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34 Livy 3.3.9.

35 Livy *Ep.* 59.

36 A rise from 104,714 in 465 B.C. to 117,319 in 459 (Livy 3.3.9; 3.24.10); and from 318,823 in 131 to 394,736 in 125 (Livy *Ep.* 59; 60).

37 The weakness of the attempts to explain away these phrases affords a certain amount of comic relief. Herzog (*op. cit.* [*supra,* n. 7] 126) stated that *praeter orbos orbasque* was the same thing as *eorum qui arma ferre possent,* thus attributing to Livy obscurities or circumlocutions which not even undergraduates find in him. Mommsen (*Le Droit Public Romain* [Paris 1887-1896] IV [1894] 93, n. 2) explained the language accompanying the figures as resulting from a conflation or abbreviation of an earlier *capita civium Romanorum tot; eorum qui arma ferre possent tot; orbi orbaeque tot.* He himself appeared to consider the explanation alarmingly whimsical and sought an analogy for it in *praetor peregrinus.*

38 Festus *s.v. proletarium.*

39 Nonius (ed. Lindsay) 93.

40 *De rep.* 2.22.40.

41 *Tabula Heracleensis* lines 153-156. Here there seems to be no provision for the declaration of subordinates. See *supra,* note 20.

42 *Lex Acilia Repetundarum* line 27.

43 Cicero *Pro Milone* 27.73. Dionysius states (1.74.5) that censorial records were originally preserved in the family archives of those who held the office of censor. In the second century B.C. the archives were in the Atrium of Liberty (Livy 43.16.13; 45.15.5).

following points alone have made it the strongest contender:

(1) For practical reasons the basic censorial lists would be longest preserved and most easily consulted.

(2) Annalists regularly cited census statistics at the time when the basic list had been completed; but army lists must have been revised from year to year, and the other lists suggested involve unlikely, inexplicable, even ridiculous computations by the annalists.

(3) The explicit exclusion of wards and widows from certain lustra intimates strongly that they were customarily included. This could only be because of their status as being *sui iuris*, and it indicates that this was the criterion determining the census figures.

(4) The phrase used by Livy in giving the census, *censa civium capita*, means "the number of citizens rated" and can have only that meaning unless one treats the Latin with unnecessary liberty.[44]

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A ROMAN "ANTI-SUBVERSIVE ACTIVITIES" LAW

In the bitter diatribe which he delivered against Piso, Cicero denounces him for his failure to support the Senate's action in suspending the *ludi compitalicii:*

Aude nunc, o furia, de tuo [consulatu] dicere! cuius fuit initium ludi compitalicii tum primum facti post L. Iulium et C. Marcium consules contra auctoritatem huius ordinis; quos Q. Metellus—facio iniuriam fortissimo viro mortuo, qui illum cuius paucos paris haec civitas tulit cum hac importuna belua conferam—sed ille designatus consul, cum quidam tribunus plebis suo auxilio magistros ludos contra senatus consultum facere iussisset, privatus fieri vetuit atque id quod nondum potestate poterat obtinuit auctoritate.[1]

What reason was there that the Senate should go so far as to issue a decree against the holding of these particular games? The Romans, we know, were fond of games of all sorts, and their number increased so greatly that under the Empire Juvenal made his bitter comment that the only things the populace wanted were *panem et circenses*. The Senate must have had good cause to institute a ban on an established set of *ludi*, and so indeed it did. Asconius recounts it, in commenting on the passage quoted above.

L. Iulio C. Marcio consulibus quos et ipse Cicero supra memoravit senatus consulto collegia sublata sunt quae adversus rem publicam videbantur esse constituta. Solebant autem magistri collegiorum ludos facere, sicut magistri vicorum faciebant, Compitalicios praetextati, qui ludi sublatis collegiis discussi sunt. Post VI deinde annos quam sublata erant P. Clodius tr. pl. lege lata restituit collegia. Invidiam ergo et crimen restitutorum confert in Pisonem, quod, cum consul esset, passus sit ante quam lex ferretur facere Kal. Ianuar. praetextatum ludos Sex. Clodium.... Quos ludos tunc quoque fieri prohibere temptavit L. Ninnius tr. pl. Ante biennium autem quam restituerentur collegia, Q. Metellus Celer consul designatus magistros vicorum ludos Compitalicios facere prohibuerat, ut Cicero tradit, quamvis auctore tribuno plebis fierent ludi; cuius tribuni nomen adhuc non inveni.[2]

Asconius, then, says that by decree of the senate all guilds *(collegia)* which seemed to have been established against the welfare of the state were abolished. With the abolition of the *collegia compitalicia*,[3] the *ludi compitalicii* disappeared by default.

These guilds were composed of freedmen and slaves, the lowest classes of the population.[4] The Roman people had had sad experiences with the outburst of similar groups in the past. Less than a decade before, Spartacus had led the famous revolt of the gladiators at Capua. The gladiators were joined by the slaves of that region, and successfully resisted the Roman armies for the better part of three years. Moreover, more than one hundred years earlier, the Roman government had faced a similar crisis, and had met it with firm measures. Around 190 B.C., a rebellion of Carthaginian slaves and hostages arose in Latium and Etruria. In 186 the scandal of the Bacchanalia, involving many crimes and vices,[5] burst into the open. The meetings of the various groups were held at night and in secret, a practice contrary to Roman law. The Senate, fearing that the groups would attempt to overthrow the government when their numbers became sufficient, passed the *Senatus Consultum de Bacchanalibus*, which prohibited these societies, and imposed the death penalty on those who had taken part in the rites.

A like fear gripped the senate in 64; an uprising was a real possibility. Affairs were unsettled; Catiline's con-

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44 Although we can now see that the army figures given by Polybius for 225 B.C. and the census figures of Livy for 233 B.C. probably do not indicate the same thing, a comparison of them is of some interest. The army figures, as worked out by Mommsen (see *supra*, n. 5), are approximately 20,000 higher than the census statistics. This is entirely in keeping with what we know of third century Rome. One would not expect to find a large number of family units completely lacking the financial requirements for army service so long before the urbanization and impoverishment which followed the Second Punic War. On the other hand, we can not expect the number of eligible males greatly to exceed the number of family units in view of the Roman laws of inheritance and the responsibility for keeping the *familiae* intact.

1 *In Pisonem* 8.

2 P. 7.9-26, ed. Clark (Oxford 1907).

3 For a general discussion of the *collegia compitalicia* see G. Wissowa, *Religion und Kultus der Römer*[2] (Munich 1912) 171-173. See also S. Accame, "La legislazione romana interno ai collegi nel 1. secolo A.C.," *Boll. del Museo dell' Impero Romano*, 13 (1942) 13-48.

4 Cicero *In Pisonem* 9; *De domo* 54; *De haruspicum responsis* 22; Dion. Hal. 4.14.3.

5 Vividly described by Livy 39.8-18.